

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

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ADMINISTRATIVE HEARING
COMMISSION

STATE COMMITTEE FOR SOCIAL WORKERS,)
)
Petitioner,)
)
v.)
)
GEORGE ROBERTS,)
)
Respondent.)

No. 02-0986 SW

JOINT STIPULATION OF FACTS, WAIVER OF HEARINGS BEFORE
THE ADMINISTRATIVE HEARING COMMISSION AND STATE
COMMITTEE FOR SOCIAL WORKERS, AND CONSENT
ORDER WITH JOINT PROPOSED FINDINGS OF
FACT AND CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (1 CSR 15-2.450(1)) and pursuant to the terms of § 536.060, RSMo 2000, as it is made applicable to the Administrative Hearing Commission by § 621.135, RSMo 2000, the parties waive the right to a hearing of the above-styled case by the Administrative Hearing Commission of the state of Missouri and, additionally, the right to a disciplinary hearing before the State Committee for Social Workers under § 621.110, RSMo 2000, and jointly stipulate to the facts and consent to the imposition of disciplinary action against the social work license of Respondent for violations of the statutes set forth below.

Respondent acknowledges that he has received and reviewed a copy of the Complaint filed by the State Committee for Social Workers in this case and the parties submit to the jurisdiction of the Administrative Hearing Commission.

Respondent acknowledges that he is aware of the various rights and privileges afforded him by law, including the right to appear and be represented by counsel; the right to have a copy of the Complaint served upon him by the Administrative Hearing Commission prior to the entering of its order; the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on Respondent's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against Respondent; and the right to a ruling on questions of law by an administrative hearing commissioner. Being aware of these rights provided the Respondent by operation of law, Respondent, George Roberts, knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee for Social Workers , and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law and agrees to abide by the terms of this document as they pertain to Respondent.

I

Based upon the foregoing, Petitioner and Respondent jointly stipulate to the following and request that the Administrative Hearing Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law:

JOINT PROPOSED FINDINGS OF FACT

1. Petitioner, the State Committee for Social Workers ("Committee"), is an agency of the state of Missouri created and established by § 337.622, RSMo 2000, for the purpose of administering and enforcing the provisions of Chapter 337, RSMo, relating to social workers.

2. Respondent, George Roberts ("Licensee"), is licensed by the Committee as a social worker, license No. SW003549. Licensee's license is, and was at all times relevant herein, current and active.

3. At the time of the events alleged herein, Licensee was employed as a social worker at Family Counseling in Jefferson City, Missouri.

4. On or about September 6, 2001, Licensee was providing volunteer services as a social worker at the Cole County Public Health Department.

5. Licensee instructed his client at the Cole County Public Health Department to go to the Family Counseling Office in Jefferson City, Missouri, to obtain a sample of psychotropic medication.

6. Licensee called the Family Counseling office and ordered the receptionist, Jane Russell, to provide a sample of medication to the client.

7. Licensee directed Ms. Russell to provide Effexor to the client.

8. Licensee instructed Ms. Russell as to the dosage of Effexor Ms. Russell was to instruct the client to take.

9. Effexor is a prescription medication.

10. No valid prescription existed for the Effexor provided to the client.

11. On or about September 11, 2001, Licensee admitted the conduct alleged herein to Anita Kiessling-Caver, Program Director for Family Counseling, and was terminated from his employment at Family Counseling.

12. Section 337.600(6) defines the practice of clinical social work. Section 337.600 states:

As used in sections 337.600 to 337.639, the following terms mean:

....

(6) **"Practice of clinical social work"**, rendering, offering to render, or supervising those who render to individuals, couples, groups, organizations, institutions, corporations, or the general public any service involving the application of methods, principles, and techniques of clinical social work;

....

13. The practice of clinical social work does not include prescribing or otherwise providing prescription medication to clients.

14. Licensee's conduct as alleged herein exceeded the practice of clinical social work as defined by § 337.600(6).

15. Licensee is not trained to prescribe medication or otherwise provide prescription medication to clients.

16. By ordering the receptionist to provide Effexor to the client, providing instructions as to the appropriate dosage of Effexor, and instructing the client to obtain the Effexor, Licensee failed to limit his practice to the areas for which he was trained.

17. Licensee's conduct as alleged herein violates 4 CSR 263-3.140(1), which states in relevant part, "Clinical social work is a broad area covering many areas of social work. Licensed clinical social workers, provisional licensed clinical social workers, temporary permit holders and registrants shall limit their practice to the area(s) for which they are trained."

18. Family Counseling had a relationship of professional trust and confidence with Licensee in that Family Counseling relied on Licensee to provide services consistent with the laws and regulations pertaining to the practice of social work.

19. Licensee's conduct as alleged herein violated the professional trust and confidence of Family Counseling.

20. The Cole County Public Health Department had a relationship of professional trust and confidence with Licensee in that the Cole County Public Health Department relied on Licensee to provide services consistent with the laws and regulations pertaining to the practice of social work.

21. Licensee's conduct as alleged herein violated the professional trust and confidence of the Cole County Public Health Department.

22. Licensee's client had a relationship of professional trust and confidence with Licensee in that the client relied on Licensee to provide services consistent with the laws and regulations pertaining to the practice of social work.

23. Licensee's conduct as alleged herein violated the professional trust and confidence of his client.

24. Licensee's conduct as alleged herein constitutes misconduct in that Licensee intentionally provided a prescription medication to the client, knowing that said conduct put the client at risk by taking a potentially harmful medication without a prescription and knowing that said conduct violated the laws and regulations governing the practice of social work.

25. Licensee's conduct as alleged herein constitutes gross negligence in that providing a prescription medication to the client was a gross deviation from the standard of care that a reasonable clinical social worker would exercise in that situation and demonstrates

a conscious indifference to Licensee's ethical duty to limit his practice to the area in which he is trained.

JOINT PROPOSED CONCLUSIONS OF LAW

26. Cause exists to discipline Licensee pursuant to § 337.630.2, which states in relevant parts:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 337.600 to 337.639 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

....

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a clinical social worker;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.600 to 337.639, or of any lawful rule or regulation adopted pursuant to sections 337.600 to 337.639;

....

(13) Violation of any professional trust or confidence;

....

(15) Being guilty of unethical conduct as defined in the ethical standards for clinical social workers adopted by the committee by rule and filed with the secretary of state.

II

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the State Committee for Social Workers in this matter under the authority of § 621.110, RSMo 2000. This disciplinary order will be effective immediately upon the issuance of the Consent Order of the Administrative Hearing Commission without further action by either party:

1. Licensee's social work license, No. SW003549, is hereby placed on PROBATION for a period of two years. However, Licensee may petition the Committee for early termination of the probation upon satisfactory completion of the terms and conditions of discipline. The period of probation shall constitute the disciplinary period. During the disciplinary period, Licensee must adhere to the following terms and conditions:

I. REQUIREMENTS REGARDING EDUCATION

A. Licensee, at his own expense, shall complete a course in professional ethics in the practice of social work. The course shall be approved by the Committee prior to Licensee beginning the course. Prior to beginning the course, Licensee shall submit documentation to the Committee regarding the institution through which the course is offered, content of the course, number of credits hours awarded for satisfactory completion of the course and other such documentation as may be requested by the Committee. Failure to complete the required course work prior to the end of the period of probation shall be deemed a violation of this Joint Stipulation.

B. Upon completion of an ethics course as required by the terms of this Joint Stipulation, Licensee may petition the Committee for early termination of the period of probation. Licensee shall provide such documentation as requested by the Committee verifying Licensee has successfully completed the required course work. The decision to grant early termination of the period of probation shall be at the sole discretion of the Committee.

II. GENERAL REQUIREMENTS

A. Licensee shall not serve as a supervisor for any social work trainee, or any person undergoing supervision during the course of obtaining licensure as a social worker.

B. Licensee shall keep the State Committee for Social Workers apprised at all times, in writing, of Licensee's current home and work addresses and telephone numbers. Licensee shall notify the Committee in writing within ten days of any change in this information.

C. Licensee shall timely renew his license and pay to the State Committee for Social Workers, in a timely fashion, all requisite fees required by law to renew and keep current Licensee's social work license in Missouri.

D. Licensee is required to comply with all provisions of Chapter 337, RSMo; the rules and regulations duly promulgated by the State Committee for Social Workers; and state and federal criminal laws.

E. Licensee shall accept and comply with unannounced visits from the Committee's representatives to monitor his compliance with the terms and conditions of this Joint Stipulation.

F. At Licensee's expense, Licensee shall meet with the State Committee for Social Workers or its designee, upon the Committee's request.

G. Periods of residency or the practice of social work outside Missouri will not apply to the reduction of the disciplinary period. Licensee shall notify, in writing, the social work licensing authorities of the jurisdiction in which he is residing or practicing, by no later than the day before the beginning of the disciplinary period, of Licensee's disciplinary status in Missouri. Licensee shall forward a copy of this written notice to the Committee contemporaneously with sending it to the relevant licensing authority. In the event Licensee should leave Missouri to reside or practice social work outside the state during the disciplinary period, Licensee shall notify the Committee in writing of the dates of departure and return no later than ten days before Licensee's departure. Furthermore, Licensee shall, no later than ten days after the commencement of any residence or practice outside this state, notify in writing the social work licensing authorities in the jurisdiction in which Licensee is residing or practicing of Licensee's disciplinary status in Missouri.

H. Licensee shall notify, within fifteen days of the effective date of this Joint Stipulation, all facilities where Licensee practices of Licensee's disciplinary

status. Notification shall be in writing and Licensee shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Committee for verification by the Committee or its designated representative.

I. For purposes of this Joint Stipulation, unless otherwise specified in this Joint Stipulation, all reports, documentation, evaluations, notices, or other materials required to be submitted to the Committee in this Joint Stipulation shall be forwarded to the State Committee for Social Workers, P.O. Box 1335, 3605 Missouri Boulevard, Jefferson City, Missouri 65102.

2. The parties to this Joint Stipulation understand that the State Committee for Social Workers will maintain this Joint Stipulation as an open and public record of the Committee as provided in Chapters 337, 610, and 620, RSMo.

3. Failure to comply with any of the terms of this Joint Stipulation shall be deemed a violation of the Joint Stipulation and shall be cause for further discipline.

4. Upon the determination of the State Committee for Social Workers that the Licensee has failed to comply with the terms of this Joint Stipulation, the Committee may revoke Licensee's license or may take such other or additional disciplinary action against Licensee or Licensee's license as the Committee deems appropriate. No order shall be entered by the State Committee for Social Workers pursuant to this paragraph of this consent order without notice and an opportunity for hearing before the Committee in accordance with the provisions of Chapter 536, RSMo.

5. Upon the successful completion of the period of discipline, Licensee's license as a social worker in Missouri shall be fully restored if all other requirements of law have been satisfied.

6. If the State Committee for Social Workers determines that the Licensee has violated a term or condition of this Joint Stipulation, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the State Committee for Social Workers may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Joint Stipulation in its determination of appropriate legal actions concerning that violation. If any alleged violation of this Joint Stipulation occurred during the disciplinary period, the State Committee for Social Workers may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, it may impose further discipline. The State Committee for Social Workers retains jurisdiction to hold a hearing to determine if a violation of this Joint Stipulation has occurred.

7. In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee for Social Workers, and Consent Order and to the termination of any further proceedings before the Administrative Hearing Commission based upon the Complaint filed by the Petitioner in the above-styled action.

8. The terms of this Joint Stipulation are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Joint Stipulation nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

9. Licensee hereby waives and releases the State Committee for Social Workers, its members and any of its employees, agents, or attorneys, including any former committee members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this Joint Stipulation. The parties acknowledge that this paragraph is severable from the remaining portions of this Joint Stipulation in that it survives in perpetuity even in the event that any court of law deems this Joint Stipulation or any portion thereof void or unenforceable.

RESPONDENT

George G. Roberts Jr.
George Roberts

Date 10/23/02

PETITIONER

Ken L. Bishop
Ken L. Bishop
Executive Director
State Committee for Social Workers

Date 11/4/02

JEREMIAH W. (JAY) NIXON
Attorney General

A handwritten signature in dark ink, appearing to read "Ronald Q. Smith", written over a horizontal line.

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